

REMARKS

Reconsideration of the present application is respectfully requested. No amendments have been made or are believed to be necessary.

Claim Rejections

35 U.S.C. § 103 Rejections

Claims 1, 19, and 38 stand rejected under 35 U.S.C. § 103(a) based on U.S. Patent no. 6,427,149, Rodriquez et al. ("Rodriquez") in view of Distributed Systems Concepts and Design, 1995, Coulouris et al. ("Coulouris") and in further view of U.S. Patent no. 6,408,294, Getchius et al. ("Getchius"). Applicants respectfully traverse the rejections.

1. Cited References Not Effective as Prior Art

The present application is a continuation-in-part of U.S. Patent no. 6,311,221, Raz et al. ("Raz"), entitled "Streaming Modules" and filed on July 22, 1998. Each and every element of claim 1 is described in Raz as required by 35 U.S.C. § 112, first paragraph. Therefore, claim 1 is entitled to the benefit of the filing date of Raz (July 22, 1998). Consequently, Rodriquez (filed on Sep. 9, 1999) and Getchius (filed on Mar. 31, 1999) are not effective as prior art against claim 1.

Claims 19 and 38 include limitations substantially similar to those of claim 1. Therefore, both of them are entitled to the benefit of the filing date of Raz, too. Accordingly, Rodriquez and Getchius are not effective as prior art against claims 19 and 38.

2. Discussion of References' Disclosure

Even assuming, only for the sake of argument, that Raz does not fully support claims 1, 19, and 38, the Examiner has not met the burden to establish a *prima facie* case under § 103(a), at least for the reason that Rodriguez, Coulouris, and Getchius do not teach or suggest all the claim limitations of claims 1, 19, and 38. See MPEP § 2142.

Specifically, the Examiner admits that Rodriguez and Coulouris fail to disclose a prediction model and an engine to predict the streaming blocks (Office Action, p.4). However, the Examiner contends that Getchius discloses such a feature, and that it would be obvious to combine the teachings of Getchius with the teachings of Rodriguez and Coulouris. Applicants respectfully disagree.

Claim 1 recites:

1. (Previously presented) A system for streaming a software application to a client comprising:
 - an application library having application files and **a prediction model** stored therein;
 - a streaming manager configured to send the application files to a client as a plurality of streamlets, each streamlet corresponding to a particular data block in a respective application file; and
 - a streaming prediction engine configured to identify at least one streamlet which is predicted to be most appropriate to send to a given client at a particular time in accordance with the prediction model.**(Emphasis added.)

The cited combination fails to disclose or suggest prediction, a prediction model, or a streaming prediction engine as recited in claim 1. Getchius discloses an online data query system and a system for targeting advertisements that are displayed to a user of the system (Abstract). When a user does a data query through the system, advertisements considered as relevant to the user are selected and displayed based on

characteristics of the user, which are inferred from the nature of the user's query (col. 61, lines 33-42). For example, an advertiser might conclude that a user who has entered a query with the category "art supplies" is interested in art, so that an advertisement for an art show or related mater would be an appropriate ad (col. 61, lines 42-46). Therefore, the content of the advertisements selected for a particular user has a very close relationship with the user's query and the whole selecting process essentially constitutes nothing but a broadened search, not a prediction as required in claim 1. Furthermore, targeting as disclosed in Getchius is opposite of prediction. It is a determination after the fact since finding relevant advertisements is based on what the user has already told the system via the user's query.

The Examiner relies on the Abstract, Figure 4, and col. 8, line 37 through col. 9, line 34 of Getchius and alleges that a prediction model is disclosed therein (Office Action, p. 4). Specifically, the Examiner states that Figure 4 and col. 8, line 37 through col. 9, line 34 disclose a webserver engine, which processes advertisement contents based on a client's interaction, and that the webserver engine represents or suggests a prediction model (Office Action, p. 4). Applicants respectfully disagree. Figure 4 and col. 8, line 37 through col. 9, line 34 describe an online-query system, which, upon receiving a user query, parses the query and responds it by sending back an HTML page to the user. The only mention of webserver engine in this part of Getchius is that the webserver engine 852 accesses information from the image repository 840 and HTML repository 838, and that the image repository 840 includes various graphic images and other non-text data which may also be directly accessed by the webserver engine 852 in response to a user request, as by a user request for a specific URL (col.

8, line 63 through col. 9, line 2). This part of the discussion, however, has nothing to do with prediction or prediction model.

Therefore, Getchius does not teach a prediction model stored in an application library, neither does it teach a streaming prediction engine configured to identify at least one streamlet which is predicted to be most appropriate to send to a given client at a particular time in accordance with the prediction model as recited in claim 1.

3. No Motivation/Suggestion

Furthermore, assuming *arguendo* that Getchius' targeting advertisements involves prediction (which it does not), there is no motivation or suggestion for an ordinary skilled in the art to combine the teachings of Getchius with the teachings of Rodriguez and Coulouris.

The Examiner contends that Getchius suggests a concept of sending the application modules in advance to a client, and that the motivation to combine the teachings of Rodriguez and Coulouris with the teachings of Getchius to "facilitate a communication mechanism to transfer the data modules from a server to a client in advance" is obvious because "streaming only necessary application modules to the client would reduce usage of network bandwidth" (Office Action, p. 4-5).

The motivation alleged by the Examiner does not withstand scrutiny. First, the Examiner is wrong that Getchius suggests a concept of sending the application modules in advance to a client. Getchius' teachings of an online-query system and targeting advertisements system have nothing to do with application streaming and prediction. Further, even assuming that streaming only necessary application modules to the client would reduce usage of network bandwidth, it does not suggest sending the application

modules to a client in advance as the Examiner contends. Application modules could be sent to a client on demand, rather than in advance. In that case, no prediction is necessary.

4. No Relation to Application Streaming

In addition, the claimed invention could not be obvious based on the cited art even assuming *arguendo* that there is motivation or suggestion to combine the cited references. The present invention relates to application streaming, a technology to deliver software to permit an application to begin executing before it has been completely downloaded. None of the cited references relates to application streaming. It is also important to note that timing is not at issue for Getchius' targeting advertisements system, as it is in application streaming. For example, if the same targeting advertisements system was used, an advertisement for an art show would be an appropriate ad no matter whether the user did the query "art supplies" yesterday or today. By contrast, a software application's execution is time sensitive, because any user interaction or change of the environment within which the application runs may affect the application's sequence of execution, which in turn may affect which part/block of the application is needed next; and the prediction may change even with the same prediction model.

For at least the foregoing reasons, therefore, claim 1 and all claims which depend on it are patentable over the cited art.

Independent claims 19 and 38 include limitations substantially similar to those discussed above in claim 1 and, therefore, are also patentable along with their dependent claims for similar reasons.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

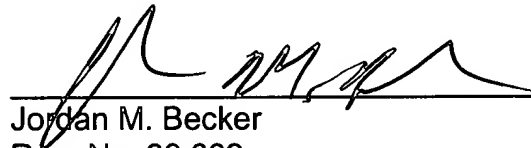
For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If any additional fee is required, please charge Deposit Account No. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date:

8/10/04


Jordan M. Becker
Reg. No. 39,602

Customer No. 08791
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030
(408) 720-8300

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

August 10, 2004

(Date of Deposit)

Julie Arango

(Typed or printed name of person mailing correspondence)

 8/10/04
(Signature of person mailing correspondence)